

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., et
al.,

Defendants.

CIVIL ACTION NO. 04-CV-11136GAO

SUPPLEMENTAL AFFIDAVIT OF DONALD BARRETT

I, DONALD BARRETT, under oath, declare as follows:

1. I am a principal shareholder or defendants Direct Marketing Concepts (“DMC”) and ITV Direct, Inc. (“ITV Direct”), and am responsible for the management and operations of each company. I make this affidavit on the basis of my own personal knowledge of the facts set forth herein and could testify competently thereto if called to do so.

2. I understand that the FTC has raised concerns regarding a promotion and infomercial for UroCaps, a dietary supplement.

3. UroCaps is not a product of either DMC or ITV. Rather, UroCaps is a product that was developed by another company unaffiliated with DMC or ITV, Ideal Health. Ideal Health is a manufacturer of dietary supplements located in Dallas, Texas, with additional offices in New Hampshire and Florida. Ideal Health also has an independent marketing division promoting the multimedia development of dietary supplement products. Ideal Health has its own studio and production facilities in Florida. Copies of Ideal Health’s web pages, including descriptions of the company’s products, are attached as Exhibit A.

4. In February 2004, we consulted with and advised the owners of Ideal Health, Todd and Scott Stanwood, concerning the production of an infomercial for their products. The infomercial for UroCaps was filmed in Ideal Health’s studios in Florida, and was unscripted. Neither DMC, ITV nor I had any input or control over the content of the infomercial or the

claims made about UroCaps by Ideal Health, which mirror claims that Ideal Health has made and continues to make in literature and on its website. Neither DMC nor ITV have any ownership interest in the infomercial or the trademark “UroCaps”; it is exclusively owned by Ideal Health.

5. After the infomercial was completed, Ideal Health’s principal Todd Stanwood told me that he had sent a copy of the infomercial to Ideal Health’s FTC and FDA compliance attorney Spencer Reese, of the law firm of Grimes & Reese in Idaho. A copy of Mr. Reese’s curriculum vitae discussing his expertise in FTC and FDA matters is attached as Exhibit B. Mr. Stanwood then informed me that Mr. Reese had reviewed the infomercial and confirmed that it complied with all FTC and FDA requirements.

6. After filming, the infomercial was tested in a few limited markets over the course of several weeks, but was not widely distributed. After this limited testing, I do not believe that Ideal Health has purchased any additional media for its infomercial and it has not been run in any markets since May 2004. I understand Ideal Health has no intention to run the infomercial again in the future and, because neither DMC nor ITV own the infomercial or the trade name “UroCaps”, they also do not have any intention of running the infomercial.

7. I was advised by Mr. Stanwood in May 2004 that the FTC had contacted Ideal Health concerning the UroCaps infomercial. Ideal Health informed me that the FTC had expressed concerns over certain health claims in the infomercial. Ideal Health told me that it had consulted with its attorney Mr. Reese and informed the FTC that it did not intend to run the infomercial in the future. Likewise, because it does not own the infomercial, neither DMC nor ITV have any intention of running the UroCaps infomercial in the future.

8. DMC and ITV currently have no inventory of any Ideal Health products.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 9th day of June, 2004 at Beverly, Massachusetts.

/s/ Donald Barrett
DONALD BARRETT